

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

TAMMY S BEATTY,

Plaintiff,

Case No. 16-cv-13533

v.

Honorable Thomas L. Ludington

Magistrate Judge David R. Grand

SOCIAL SECURITY, COMMISSIONER OF,

Defendants.

**ORDER ADOPTING REPORT AND RECOMMENDATION, DENYING
COMMISSIONER'S MOTION FOR SUMMARY JUDGMENT, GRANTING IN PART
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT, AND REMANDING FOR
FURTHER PROCEEDINGS**

Plaintiff Tammy S. Beatty filed an application for disability insurance benefits under the Social Security Act on January 28, 2014. Her application was denied, and Beatty sought an administrative hearing. After the hearing, the Administrative Law Judge issued a written decision concluding that Beatty was not disabled under the Act. The Appeals Council denied review. On October 1, 2016, Beatty filed a complaint seeking judicial review of the Commissioner's final decision. ECF No. 1. The case was referred to Magistrate Judge David R. Grand. ECF No. 3. Both parties have since filed cross-motions for summary judgment. ECF Nos. 14, 19. On October 11, 2017, Judge Grand issued a report recommending that Beatty's motion for summary judgment be granted in part,¹ the Commissioner's motion for summary judgment be denied, and this matter be remanded. ECF No. 21. Specifically, Judge Grand found that the ALJ's description

¹ Judge Grand recommends granting Beatty's motion for summary judgment to the extent she seeks remand and denying it to the extent she seeks an award of benefits.

of Beatty's foot conditions was not supported by substantial evidence and improperly discounted Beatty's credibility.

Although the Magistrate Judge's report explicitly stated that the parties to this action may object to and seek review of the recommendation within fourteen days of service of the report, neither Plaintiff nor Defendant filed any objections. The election not to file objections to the Magistrate Judge's report releases the Court from its duty to independently review the record. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). The failure to file objections to the report and recommendation waives any further right to appeal.

Accordingly, it is **ORDERED** that the Magistrate Judge's report and recommendation, ECF No. 21, is **ADOPTED**.

It is further **ORDERED** that Defendant Commissioner's motion for summary judgment, ECF No. 19, is **DENIED**.

It is further **ORDERED** that Plaintiff Beatty's motion for summary judgment, ECF No. 14, is **GRANTED in part**.

It is further **ORDERED** that this matter is **REMANDED** for further proceedings under Sentence Four consistent with the Magistrate Judge's report and recommendation.

Dated: October 31, 2017

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on October 31, 2017.

s/Kelly Winslow
KELLY WINSLOW, Case Manager